

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

AARON CLARK,)	
)	
Plaintiff,)	
)	
vs.)	Case No.: 2:10-cv-00066-AGF
)	
GEORGE LOMBARDI, DOUG PRUDDEN,)	
JILL PERKINS, R.N., DR. THOMAS)	
CABRERA, M.D., DR. ELIZABETH)	
CONLEY, MS. JEWEL COFIELD,)	
CORRECTIONAL MEDICAL SERVICES,)	
MS. BRENDA SHIRA, R.N., DR.)	
FARNHAM, M.D., S. KEETES, JOY)	
HAILEY, R.N., JEAN JOHNSON, VALITAS)	
HEALTH SERVICES, INC., CARMEN)	
VENTURA, JAY BARONE, H.S.A., DR.)	
STAN, and LINDA DILLON, R.N.,)	
)	
Defendants.)	

**RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION TO MODIFY THE CASE
MANAGEMENT ORDER**

COMES NOW Defendants, Jill Perkins, Dr. Thomas Cabrera, Dr. Elizabeth Conley, Jewel Cofield, Corizon, Inc. (f/k/a Correctional Medical Services), Brenda Shira, Dr. Farnham, Joy Hailey, and Linda Dillon, and for their opposition to plaintiff's motion to modify the case management order state as follows:

1. Plaintiff filed his Complaint in October of 2010 based on facts alleged to have occurred primarily between April and June of 2009, while Plaintiff was incarcerated at the Western Missouri Correctional Center in Cameron, Missouri.
2. Defendants admit that counsel was appointed in November of 2010.

3. The Case Management Order governing the scheduling and deadlines in this matter has been in place since July 26, 2011.

4. Whether or not Plaintiff's appointed counsel had funds with which to retain experts, his pleading could have been amended prior to the expiration of the statute of limitations for the medical negligence claims his newly retained counsel wishes to assert. Upon information and belief, the period expired at least 9 months ago.

5. Further, Plaintiff's apparent present ability to retain private counsel mitigates against the necessity of the Court to continue to fund the prosecution of this matter pursuant to Plaintiff's claim of entitlement to same.

6. The inability of these Defendants to plan and prepare a defense, including the pleading of additional affirmative defenses and retaining their own experts, has been prejudiced by the advancement of time and the foregone opportunities to collect develop exculpatory evidence based on the theory that was not pled.

7. Should the Defendants be found liable for violating the civil rights of Aaron Clark, the Court or a jury will have the authority and discretion to provide Mr. Clark an adequate remedy without of circumventing the statutory limitations has placed on professional negligence claims.

8. Moreover, the proximate cause of Plaintiff's injury remains the violent assault on him by another inmate, and amending the pleadings to add a second theory of liability against the prison doctors charged with his care does nothing to change the underlying inmate attack on the Plaintiff.

WHEREFORE, for all of the reasons stated herein and addressed in further detail in Defendants Barone, Street and Ventura's Memorandum in Opposition (#64), Defendants Jill

Perkins, Dr. Thomas Cabrera, Dr. Elizabeth Conley, Jewel Cofield, Corizon, Inc. (f/k/a Correctional Medical Services), Brenda Shira, Dr. Farnham, Joy Hailey, and Linda Dillon respectfully request that the Court deny the Plaintiff's Motion to Modify the Existing Case Management Order (#62) and provide for such other and further relief as the Court deems just and proper.

/s/ Jessica L. Liss

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Charissa L. Mayes, #47814MO

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I hereby certify that a copy of the foregoing filed electronically with the Clerk of the Court this 5th day of April, 2012 to be served by operation of the Court's electronic filing system upon the following: **Ms. Amy L. Ohnemus**, Attorney for Plaintiff, 2801 St. Marys Avenue, P.O. Box 962, Hannibal, Missouri 63401 - aohnemus@socket.net; **Mr. John H. Norton**, Attorney for Plaintiff, 6000 North Oak Trafficway, Suite 201, Kansas City, MO 64118, **Ms. Karin A. Schute**, Attorney for Defendants Lombardi, Pruden and Johnson, PO Box 861, St. Louis, Missouri 63188- karin.schute@ago.mo.gov, **Mr. David P. Ellington and Mr. Kevin J. Adrian**, Attorneys for Defendants Ventura, Barone, and Dr. Unknown Stan, 1010 Market Street, 20th Floor, St. Louis, Missouri 63101 – dellington@bjpc.com; kadrian@bjpc.com.

/s/ Jessica L. Liss
